



AF/1713/\$
IFU#

PATENT
Docket No. H 3146 PCT/US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of Loth et al.

Confirmation No. 3579

Serial No. 09/530,815

Examiner: Marie L. Reddick

Filed: 7/12/2000

Art Unit: 1713

Title: A POLYACRYLATE JOINTING COMPOUND

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail, in an envelope addressed to: Commissioner for Patents, Alexandria VA 22313-1450, on 5-28-04

Date

Signature of certifier

Mary Lynne Carlisle

Typed or printed name of certifier

APPEAL BRIEF TRANSMITTAL

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellant's brief, in triplicate, is transmitted herewith in accordance with 37 C.F.R. § 1.192.

Please charge the required fee of \$330 to our Deposit Account No. 01-1250. Order No. 04-0194.

The Commissioner is hereby authorized to charge any deficiency in the required fee or to credit any overpayment to Deposit Account No. 01-1250.

06/03/2004 HAHMED1 00000085 011250 09530815

02 FC:1402 330.00 DA

Daniel S. Ortiz
(Reg. No. 25,123)
Attorney for Applicants
(610) 278-4920

Henkel Corporation
Law Department
2200 Renaissance Boulevard, Suite 200
Gulph Mills, PA

Enclosures



PATENT
Docket No. H 3146 PCT//US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re: Application of Loth et al.

Confirmation No. 3579

Serial No. 09/530,815

Examiner: Marie L. Reddick

Filed: 7/12/2000


Art Unit: 1713

Title: A POLYACRYLATE JOINTING COMPOUND

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450, on 5-28-04

5-28-04
Date


Signature of certifier
Mary Lynne Carlisle
Typed or printed name of certifier

BRIEF ON APPEAL

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellants herewith submit a Brief on Appeal from the EXAMINER'S FINAL REJECTION of claims 6-13 and 15-26, dated October 7, 2003. Claim 14 is objected to.

SN 09/530,815
Art Unit: 1713

TABLE OF CONTENTS

	Page
REAL PARTY IN INTEREST	3
RELATED APPEALS AND INTERFERENCES	3
STATUS OF CLAIMS	3
STATUS OF AMENDMENTS	3
SUMMARY OF INVENTION	4
ISSUES	5
GROUPING OF CLAIMS	6
ARGUMENT	6
SUMMARY	17
APPENDIX	19

SN 09/530,815
Art Unit: 1713

REAL PARTY IN INTEREST

The application is assigned to Henkel KGaA, TFP/Patentabteilung, D-40191
Duesseldorf, Germany.

RELATED APPEALS AND INTERFERENCES

Appellants are not aware of any appeals or interferences, which will directly affect or be directly affected by or have a bearing on the Board's decision in the present appeal.

STATUS OF CLAIMS

Claims 6-26 are pending in the application. Claims 1-5 have been cancelled. Claims 6-13 and 15-26 stand rejected under 35 U.S.C. § 102(b) or, in the alternative, under . § 103(a) over Reinhard et al. (U.S. Patent 3,551,374). All of the pending claims are the subject of this appeal. Claim 14 is objected to as being dependent on a rejected claim.

STATUS OF AMENDMENTS

The amendments submitted in the application after Final Rejection have not been entered. The amendment to claim 6 merely corrected an obvious error in regard to 02% (0.2% corrected) noted by the Examiner. The amendments presented for claims 12 and 25 corrected obvious errors in the claims which appellants noted when

SN 09/530,815
Art Unit: 1713

reviewing the claims.

SUMMARY OF THE INVENTION

The invention is a jointing compound comprising an acrylate/acrylonitrile copolymer and a fatty compound plasticizer. The jointing compound contains typical fillers and auxiliaries (page 1, lines 1-3; page 2, lines 7-12; claims).

The acrylate/acrylonitrile copolymer contains from 85% to 98% by weight of constitutional units provided by at least one acrylate and 2% to 10% by weight of constitutional units provided by acrylonitrile (page 2, lines 20 and 21).

The fatty compound plasticizers include fatty acids, fatty alcohols and derivatives thereof with a molecular weight above 100 with an upper limit of 20,000 (page 3, lines 14-17).

"Fatty Alcohol" Plasticizers in the context of the invention are compounds containing one or more hydroxyl groups and alkyl groups containing at least 8 carbon atoms (page 7, lines 5-9 and 19).

The useful plasticizers do not include polyalkylene oxides and/or oleochemical derivatives thereof (page 8, lines 8-11).

The invention is based on the unexpected discovery that small amounts of the fatty compound plasticizer (0.2% by weight) increases the elasticity of the jointing compound to 37%, an addition of 1% by weight of fatty compound increases the elasticity to 80% (page 9, lines 29-30).

The addition of fillers and auxiliaries improves the handling behavior and properties of the jointing compound (page 8, line 11 to page 9, line 2).

The paste like consistency of the jointing compound is controlled by the amount of water (5% to 20% by weight) in the compound (page 2, line 12; page 9, lines 19-20).

The applied jointing compound of the invention is distinguished by elongation, total deformation, offset yield stress at 100% elongation and elasticity (page 9, lines 23-25).

ISSUES

1. Does the disclaimer in the definition of the term "Fatty Compound Plasticizer" (page 8, lines 9 and 10) limit the term to compounds which are not polyalkylene oxides or oleochemical derivatives of polyalkylene oxides?
2. Does the definition of the term "Fatty Alcohols" Plasticizers (page 7, lines 5-8) which requires that the fatty alcohol contain at least 8 carbon atoms preclude glycerol as a plasticizer?
3. Does the definition of "Fatty Compounds" at page 3, lines 15 and 16 which requires that the fatty compounds have a molecular weight above 100 preclude glycerol from the fatty compounds useful in the invention?
4. Does the Reinhard et al. reference disclose or suggest a composition which falls within the claims of the present application?

GROUPING OF CLAIMS

The claims do not stand or fall together. Each claim must be considered individually.

ARGUMENT

The present invention is based on the unexpected discovery that the addition of small amounts of a "Fatty Compound" as defined and exemplified at page 3, line 14 to page 8, line 10 to certain acrylate/acrylonitrile polymer dispersion containing jointing compounds substantially improves the elasticity and adhesion properties of the jointing compounds.

The jointing compound of the invention comprises 10% to 60% by weight of at least one copolymer containing from 85% to 98% by weight of constitutional units provided by at least one acrylate and from 2% to 10% by weight of constitutional units provided by acrylonitrile wherein the acrylate is an ester of acrylic acid with an alcohol containing 2 to 8 carbon atoms.

The jointing compound of the invention contains from 0.2% to 15% by weight of at least one "fatty compound" as a plasticizer. The useful "fatty compounds" in the context of the invention are fatty acids, fatty alcohols and derivatives thereof as defined and exemplified in the specification from page 3, line 15 to page 8, line 10. The useful "fatty compounds" have a molecular weight greater than 100 (page 3, lines 15, 16) and

SN 09/530,815
Art Unit: 1713

do not include polyalkylene oxides and oleochemical derivatives of polyalkylene oxides (page 8, line 9, 10).

The jointing compound contains from 5% to 20% by weight water; up to 70% by weight of fillers; and 0.3% to 5% by weight of auxiliaries. The percent by weight of the components are based on the weight of the jointing compound.

Claims 6-26 stand rejected under 35 U.S.C. § 102(b) as anticipated by, or in the alternative under 35 U.S.C. § 103(a) as obvious over Reinhard et al. (U.S. 3,551,374). Appellants submit the Reinhard et al. neither teaches nor suggest the present invention.

Reinhard et al. discloses caulking compounds and sealants based on soft polymers of ethylemically unsaturated compounds. The composition must contain at least 2 different polymers and from 0.5 to 2.5 times the weight of the polymers of conventional inorganic fillers. The composition contains form 8 to 18% by weight of water.

The Reinhard et al. composition comprises a mixture of (a) 1 part of a (co)polymer A of an ester of an ethylemically unsaturated carboxylic acid containing 3 to 5 carbon atoms with an alcohol containing 1 to 12 carbon atoms as an aqueous dispersion: (b) 0.25 to 2.5 parts of an anhydrous (co) polymer B having a K value of 10 to 70 derived from an ester of acrylic acid and/or methacrylic acid with a monohydric aliphatic alcohol having 2 to 8 carbon atoms in the alkyl group and/or of a vinyl alkyl ether having 1 to 4 carbon atoms in the alkyl group and/or of the butadiene and/or (b2)

SN 09/530,815
Art Unit: 1713

a polymer B having a K value of 5 to 40 and derived from isobutylene or isoprene. The composition is prepared by mixing or emulsifying the anhydrous, solvent-free and emulsifiable polymer B with or in an at least 50% aqueous dispersion of polymer A.

The suitable polymers A are set forth in Reinhard et al. beginning at column 2, lines 29 through column 3, line 31. A large number of possible acrylates are disclosed including acrylates containing from 88 to 92% by weight of n-butyl acrylate and 8 to 12% by weight of acrylonitrile. Other suggested polymers contain from 78 to 88% by weight of 2-ethylacrylate and 7 to 29% by weight of acrylonitrile and/or methacrylonitrile and 2 to 5% by weight of acrylic acid and/or methacrylic acid. Other copolymers of acrylates which do not contain acrylonitrile are specifically set forth.

The nature of the (co)polymers B is set forth beginning at col. 3, line 32 through column 4, line 32. The (co) polymers B can contain residues of esters of acrylic acid and/or methacrylic acid with alcohols having 2 to 8 and particularly 3 to 4 carbon atoms and are present in the composition at from 0.25 to 2.5 times and particularly 0.3 times to twice the weight of copolymer A in the caulking and sealing compounds (based on the dry weight). The B (co)polymers have a K value of 10 to 70 and particularly 30 to 50. The (co)polymers B are prepared by polymerization in bulk or in organic solvents and are substantially anhydrous. It is advantageous to use polymers containing 90 to 100% by weight of the esters, or 50 to 60% by weight of the esters and up to 40% by weight of acrylonitrile and or methacrylonitrile and 0 to 10% by weight of other hydrophilic monomers such as ethylenically unsaturated carboxylic acids.

SN 09/530,815
Art Unit: 1713

The caulking and sealing compound disclosed in Reinhard et al. can additionally contain plasticizers, drying oils, stabilizers and emulsifiers (col. 4, lines 33-35).

However, no particular plasticizers or amounts of plasticizers are disclosed. Since the polymer B is hydrophobic, emulsifiers are required to be added to the polymer B before mixing with the aqueous dispersion of polymer A or to the mixture of polymer B and polymer A. Emulsifiers are required in a range of 0.25 to 5% by weight of the polymer B. Anionic and known nonionic emulsifiers are particularly suitable for the purpose and nonionic surface-active adducts of 5 to 50 moles of ethylene oxide and one mole of an alkylphenol, a fatty alcohol, a fatty acid or a long chain amine and the salts of their sulfonation products have proved to be especially suitable (col. 4, lines 40-46). All of the examples include less than 0.5% by weight of the emulsifying agent based on the weight of the composition as a whole.

At column 4, lines 33-46, Reinhard et al. disclose that the plasticizers, drying oils, stabilizers and emulsifiers may be added in the usual way both to the polymers B and to the polymer mixture (col. 4, lines 32-35). According to the teachings of Reinhard et al. the plasticizer, drying oils, stabilizers and emulsifiers are never added directly to a dispersion of polymer A alone.

Appellants submit that Reinhard et al. does not disclose any particular plasticizers which are useful in the practice of the invention. The drying oils are drying substances and are not plasticizers since they react with oxygen in the air to become rigid portions of the composition.

SN 09/530,815
Art Unit: 1713

The stabilizers and emulsifiers are added in an amount of 0.25 to 5% by weight with reference to the polymer B. Anionic and nonionic emulsifiers are particularly suitable for the purposes and nonionic surface-active adducts of 5 to 50 moles of ethylene oxide to one mole of an alkyl phenol, a fatty alcohol or a long chain amine and salts of their sulfonation products proved to be especially suitable.

The Examiner's rejection appears to be based on her position that the emulsifier (alkoxylated hydroxyl containing compounds) in the examples of the Reinhard et al. composition falls within the definition of "Fatty Compounds" and derivatives thereof useful in the practice of the present invention. Therefore, Reinhard et al. anticipates the present invention. Appellants submit that the Examiner's position is untenable.

The present invention presents a long definition and exemplification of "Fatty Compounds" (page 3, line 14 to page 8, line 10). At page 8, lines 9, 10 the specification specifically excludes and disclaims use of polyalkylene oxides and/or oleochemical derivatives thereof from the term "Fatty Compounds". In view of the definition of "Fatty Compounds" provided in the specification and the specific disclaimer, Appellants submit that the Examiner's interpretation of the term "Fatty Compounds" is untenable and the rejection should be reversed.

In view of the lengthy nature of the definition and exemplifications of the term "Fatty Compounds" Appellants did not include the definition in the claims. However, Appellants have clearly disclosed the nature of "Fatty Compounds" useful in the present invention which specifically excludes polyoxyalkylene oxides and oleochemical

SN 09/530,815
Art Unit: 1713

derivatives of polyoxyalkylene oxides.

Reinhard et al. teaches that from 0.5% to 10% by weight of polyalcohols such as ethylene glycol and glycerol can be added to the caulking composition to facilitate incorporation of fillers and improve the gunnability of the composition (col. 5, lines 1-5).

The Examiner states that glycerol falls within the term "Fatty Compound" as used in the claims and therefore Reinhard et al. anticipates or at least makes obvious the present invention. Appellants submit that the Examiner is incorrect in her understanding of the term "Fatty Compound" as used in the present application. As stated at page 3, lines 14-16 of the present application, "Fatty Compounds" encompass fatty acids, fatty alcohols and derivatives thereof with a molecular weight of from above 100 to 20,000. In addition, useful "Fatty Alcohols" contain at least one hydroxyl group and alkyl groups containing at least 8 carbon atoms (page 7, lines 5-8 and line 19). Appellants submit that glycerol does not fall within the bounds of the term "Fatty Compound" or "Fatty Alcohol" as used in the present application.

In an attempt to make the claims short, easy to read and understandable, Appellants did not include the lengthy definition of the term "Fatty Compound", as set forth in the specification, in the claims. Appellants submit that as their own lexicographer Appellants have clearly defined the terms "Fatty Compound" and "Fatty Alcohol" in the specification and the definition should apply to use of the term in the claims.

Appellants submit that glycerol with a molecular weight of 90 and which does not

SN 09/530,815
Art Unit: 1713

contain at least 8 carbon atoms does not fall within the purview of the invention as presently claimed.

Reinhard et al. does not disclose or suggest a composition which falls within the claims of the present invention. Reinhard et al. fails as a reference since it neither teaches nor suggests a jointing compound containing the acrylate/acrylonitrile copolymer, a fatty compound plasticizer, fillers, pigments, auxiliaries and water which falls within the claims presently in the application. Reinhard et al. is particularly deficient in neither teaching nor suggesting adding to the jointing composition a "Fatty Compound", as a plasticizer, which falls within the definition of "Fatty Compound" as used in the present application.

The alkoxylated fatty acids used as an emulsifier is specifically excluded from the claims by definition and cannot be a "Fatty Compound" as claimed.

Glycerol is not a "Fatty Compound" as defined in the application since it does not have a molecular weight above 100 and does not contain 8 or more carbon atoms.

Reinhard et al. is further deficient in not disclosing a "Fatty Compound" plasticizer and the amount of such a plasticizer which should be included in the jointing compound. There are no examples in Reinhard et al. which disclose or suggest the jointing compound of the invention.

A perusal of the examples of Reinhard et al. would lead one skilled in the art to understand that the addition of polymer B improves the resilience and elongation at break of the jointing compound. Therefore, no plasticizers are required.

PATENTABILITY OF CLAIMS

Claim 6 is patentable over the teachings of Reinhard et al. since Reinhard et al. neither teaches nor suggests a jointing compound comprising from 10% to 60% by weight of a copolymer comprising 85% to 98% by weight of constitutional units provided by at least one acrylate which is an ester of acrylic acid with an alcohol containing 2 to 8 carbon atoms and 2% to 10% by weight of constitutional units provided by acrylonitrile and 0.2% to 15% of at least one fatty compound plasticizer as defined in the specification. Reinhard is completely silent concerning fatty compound plasticizers in an amount of from 0.2% to 15% by weight.

Claim 7 is patentable over the teachings of Reinhard et al. since there is no teaching or suggestion in Reinhard et al. to provide a jointing compound of claim 6 comprising 15% to 60% by weight of the acrylate/acrylonitrile copolymer.

Claim 8 is patentable over the teachings of Reinhard et al. since there is no teaching or suggestion in Reinhard et al. to include in a jointing compound from 1% to 10% by weight of the fatty compound plasticizer.

Claim 9 is patentable on the teachings of Reinhard et al. since there is no teaching or suggestion in Reinhard et al. of the jointing compound of claim 6 comprising 10% to 15% by weight of water.

Claim 10 is patentable over the teachings of Reinhard et al. since there is no teaching or suggestion in Reinhard et al. of a jointing compound of claim 6 comprising

SN 09/530,815
Art Unit: 1713

form 20% to 60% by weight of at least one of pigments and fillers.

Claim 11 is patentable over the teachings of Reinhard et al. since there is no teaching or suggestion in Reinhard et al. of the jointing compound of claim 6 containing from 1% to 2.5% by weight of one or more auxiliaries.

Claim 12 is patentable over the teaching of Reinhard et al. since there is no teaching or suggestion in Reinhard et al. of the jointing compound of claim 6 comprising a copolymer of 90% to 98% by weight of constitutional units provided by acrylates and 4% to 8% by weight of constitutional units provided by acrylonitrile.

Claim 13 is patentable over the teachings of Reinhard et al. since there is neither teaching nor suggestions of the jointing compound of claim 6 comprising one or more fatty acid esters as a fatty compound plasticizer or for any other reason.

Claim 14. The Examiner indicated that claim 14 would be patentable if amended to be dependent on a patentable claim or as an independent claim. Since claim 6 is patentable, Appellants submit that claim 14 is patentable.

Claim 15 is patentable over the teachings of Reinhard et al. since there is neither teaching nor suggestion of the jointing compound of claim 6 wherein the fatty compounds are the only plasticizer in the composition.

Claim 16 is patentable over the teaching of Reinhard et al. since Reinhard et al. neither teaches nor suggests the jointing compound of claim 6 wherein the copolymer comprises constitutional units provided by butyl acrylate.

Claim 17 is patentable over the teachings of Reinhard et al. since Reinhard et al.

SN 09/530,815
Art Unit: 1713

neither teaches nor suggests the jointing compound of claim 6 comprising one or more fatty acids, fatty alcohols and derivatives thereof (as defined in the specification) with a molecular weight between 300 and 1500.

Claim 18 is patentable over the teaching of Reinhard et al. since there is neither teaching or suggestion in Reinhard et al. of the jointing compound of claim 6. There is no teaching or suggestion of a jointing compound containing a fatty compound plasticizer (as defined in the specification) in the amounts claimed. Reinhard et al. is completely silent concerning the amount and composition of any plasticizer present.

Claim 19 is patentable over the teachings of Reinhard et al. since Reinhard et al. neither teaches nor suggests a jointing compound having the composition of claim 19. Specifically, Reinhard et al. does not teach or suggest a jointing compound containing from 1% to 10% by weight of a fatty compound selected from the group consisting of fatty acids, fatty alcohols and derivatives thereof as defined in the application.

Reinhard et al. is completely silent on the nature of a plasticizer and the amounts which can be incorporated in a jointing compound.

Claim 20 is patentable over the teachings of Reinhard et al. since Reinhard et al. neither teaches nor suggests a jointing compound containing the polyacrylic copolymer containing a fatty compound plasticizer in a range of 1% to 10% by weight.

Claim 21 is patentable over the teachings of Reinhard et al. since Reinhard et al. does not teach or suggest a jointing compound comprising the polyacrylate copolymer and a fatty acid ester plasticizer present at from 1% to 10% by weight of the jointing

SN 09/530,815
Art Unit: 1713

compound.

Claim 22 is patentable over the teachings of Reinhard et al. since Reinhard et al. neither teaches or suggests a jointing compound containing the polyacrylate copolymer and fatty compounds as the sole plasticizer.

Claim 23 is patentable over the teachings of Reinhard et al. since Reinhard et al. neither teaches nor suggests a jointing compound comprising a copolymer of butyl acrylate and acrylonirile and 1% to 10% by weight of at least one fatty compound selected from the group consisting of fatty acids, fatty alcohols and derivatives thereof as defined in the specification.

Claim 24 is patentable over the teachings of Reinhard et al. since Reinhard et al. neither teaches nor suggests joining two substrates having different coefficients of expansion or different elastic behavior using the jointing compound of claim 19. Reinhard et al. also neither teaches nor suggests a jointing compound which comprises the acrylate/acrylonitrile copolymer and a fatty compound plasticizer.

Claim 25 is patentable over the teachings of Reinhard et al. since the Reinhard et al. composition can be prepared by two processes, each of which processes neither teaches nor suggests or is similar to the process claimed in claim 25.

Claim 26 is patentable over the teachings of Reinhard et al. since Reinhard neither teaches nor suggests the process of claim 25 and could not teach or suggest using the aqueous dispersion in the process.

SUMMARY

Appellants respectfully submit that the claims in the present application are neither anticipated nor obvious over the teachings of Reinhard et al. for the following reasons:

1. Reinhard et al. neither teaches nor suggests that small amounts of fatty compound plasticizers have a substantial effect on the physical properties of a jointing compound containing an acrylate/acrylonitrile copolymer containing 85% to 98% by weight of constitutional units provided by at least one acrylate and from 2% to 10% by weight of constitutional units provided by acrylonitrile.
2. The use of alkoxylated alcohols as an emulsifier in a jointing compound is not the same or equivalent to use of a fatty compound as defined in the present application as a plasticizer. Use of alkoxylated oleochemicals as plasticizers in the present invention is expressly disclaimed in the present application.
3. The use of glycerol in a jointing compound containing an acrylate/acrylonitrile copolymer binder is not the same or equivalent to use of a fatty compound as defined in the application as a plasticizers. Fatty compound plasticizers must have a molecular weight above 100 and when the fatty compound is a fatty alcohol must have at least 8 carbon atoms. Glycerol does not fall within the bounds of the term "fatty compound" as defined in the application.

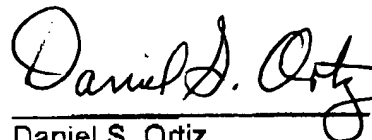
SN 09/530,815
Art Unit: 1713

The Examiner's interpretation of the term "fatty compound" bears no relation to the term as defined in the present application.

4. The Examiner has failed to consider the definition of the term "fatty compound" provided in the specification when formulating the rejection and therefore the rejection is untenable as based on false assumption by the Examiner.
5. The Examiner failed to consider the unexpected properties provided by a small amount of fatty compound as a plasticizer.

For the above reasons, Appellants respectfully request that the Honorable Board of Patent Appeals and Interferences reverse the Examiner.

Respectfully submitted,



Daniel S. Ortiz
(Reg. No. 25,123)
Attorney for Appellant
(610) 278-4920

Henkel Corporation
Law Department
2200 Renaissance Blvd.
Gulph Mills, PA 19406

SN 09/530,815
Art Unit: 1713



APPENDIX

CLAIMS ON APPEAL

Claims 1-5 (cancelled)

6. A polyacrylate jointing compound comprised of:

(a) 10% to 60% by weight of at least one copolymer containing from 85% to 98% by weight of constitutional units provided by at least one acrylate and from 2% to 10% by weight of constitutional units provided by acrylonitrile, wherein the acrylate is an ester of acrylic acid and an alcohol containing 2 to 8 carbon atoms;

(b) 0.2% to 15% by weight of at least one fatty compound as a plasticizer;

(c) 5% to 20 percent by weight of water;

(d) up to 70% by weight of fillers; and

(e) 0.3% to 5% by weight of auxiliaries

wherein said polyacrylate jointing compound is in paste form; the percent by weight of the constitutional units of the copolymer being based on the weight of the copolymer and the percent by weight of components (a) through (e) being based on the weight of the jointing compound.

7. The polyacrylate jointing compound of claim 6 comprising 15% to 60% by weight of the jointing compound of component (a).

8. The polyacrylate jointing compound of claim 6 comprising 1% to 10% by weight of the

SN 09/530,815

Art Unit: 1713

jointing compound of component (b).

9. The polyacrylate jointing compound of claim 6 comprising 10% to 15% by weight of the jointing compound of water.

10. The polyacrylate jointing compound of claim 6 comprising at least one component selected from the group consisting of fillers and pigments in an amount of from 20% to 60% by weight of the jointing compound.

11. The polyacrylate jointing compound of claim 6 additionally comprising 1% to 2.5% by weight of the jointing compound of one or more auxiliaries.

12. The polyacrylate jointing compound of claim 6 comprising a copolymer of 90% to 98% by weight of constitutional units provided by acrylates and 5% to 8% by weight of constitutional units provided by acrylonitrile.

13. The polyacrylate jointing compound of claim 6 comprising one or more fatty acid esters.

14. The polyacrylate jointing compound of claim 6 comprising epoxystearic acid methyl ester.

15. The polyacrylate jointing compound of claim 6 wherein said fatty compounds are the only plasticizers present.

16. The polyacrylate jointing compound of claim 6 comprising a copolymer comprising constitutional units provided by butyl acrylate.

17. The polyacrylate jointing compound of claim 6 comprising one or more fatty compounds selected from the group consisting of fatty acids, fatty alcohols and derivatives thereof and having a molecular weight between 300 and 1,500.

18. An improved method for joining a first substrate to a second substrate having a coefficient of thermal expansion or an elastic behavior which is different from that of the first substrate, the improvement comprising using the polyacrylate jointing compound of claim 6 to join the first substrate and the second substrate.

19. A polyacrylate jointing compound comprised of:

(a) 15% to 60% by weight of one or more copolymers comprising from 85% to 98% by weight of constitutional units provided by at least one acrylate and from 2% to 10% by weight of constitutional units provided by acrylonitrile, wherein the acrylate is an ester of acrylic acid and an alcohol containing 2 to 8 carbon atoms;

(b) 1% to 10% by weight of at least one fatty compound selected from the group consisting of fatty acids, fatty alcohols and derivatives thereof;

(c) one or more additional components selected from the group consisting of fillers and pigments, in an amount of from 20% to 60% by weight.

(d) 1% to 2.5% by weight of one or more auxiliaries; and

(e) 10% to 15% by weight of water;

wherein said polyacrylate jointing compound is in paste form; the percent by weight of the constitutional units of the copolymer being based on the weight of the copolymer and the percent by weight of components (a) through (e) being based on the weight of the jointing compound.

20. The polyacrylate jointing compound of claim 19 wherein (a) is at least one copolymer comprising 90% to 98% by weight of constitutional units provided by acrylate and 2% to 8% by weight of constitutional units provided by acrylonitrile.

21. The polyacrylate jointing compound of claim 19 comprising one or more fatty acid esters.

22. The polyacrylate jointing compound of claim 19 wherein said fatty compounds are the only plasticizers present.

SN 09/530,815
Art Unit: 1713

23. The polyacrylate jointing compound of claim 19 comprising a copolymer comprising constitutional units provided by butyl acrylate.

24. An improved method for joining a first substrate to a second substrate having a coefficient of thermal expansion or an elastic behavior which is different from that of the first substrate, the improvement comprising: using the polyacrylate jointing compound of claim 19 to join the first substrate and the second substrate

25. A process for producing the polyacrylate jointing compound of claim 6 comprising:

1) forming a mixture of component (b) and component (a):

2) adding with mixing components (d) and (e) in any order; and

3) adjusting viscosity of the jointing compound if necessary, by addition of water.

26. The process of claim 25 wherein component (a) is in aqueous dispersion form.

PROPOSED AMENDED CLAIMS

6. (Amended) A polyacrylate jointing compound comprised of:

(a) 10% to 60% by weight of at least one copolymer containing from 85% to 98% by weight of constitutional units provided by at least one acrylate and from 2% to 10% by weight of constitutional units provided by acrylonitrile, wherein the acrylate is an ester of acrylic acid and an alcohol containing 2 to 8 carbon atoms;

(b) ~~[[0.2%]]~~ 02% to 15% by weight of at least one fatty compound as a plasticizer;

(c) 5% to 20 percent by weight of water;

(d) up to 70% by weight of fillers; and

(e) 0.3% to 5% by weight of auxiliaries

wherein said polyacrylate jointing compound is in paste form; the percent by weight of the constitutional units of the copolymer being based on the weight of the copolymer and the percent by weight of components (a) through (e) being based on the weight of the jointing compound.

12. (Amended) The polyacrylate jointing compound of claim 6 comprising a copolymer of 90% to

98% by weight of constitutional units provided by acrylates and ~~[[5%]]~~ 4% to 8% by weight of constitutional units provided by acrylonitrile.

25. (Amended) A process for producing the polyacrylate jointing compound of claim 6

SN 09/530,815

Art Unit: 1713

comprising:

- 1) forming a mixture of component (b) and component (a):
- 2) adding with mixing components ~~(d) and (e)~~ (c) and (d) in any order; and
- 3) adjusting viscosity of the jointing compound if necessary, by addition of water.